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10/724,795

12/01/2003

Robert H. Murray

MSD01

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7590

12/05/2006

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EXAMINER

CEGIELNIK, URSZULA M

ART UNIT

PAPER NUMBER

3711

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,795

Applicant(s)

MURRAY ET AL.

Examiner

Urszula M. Cegielnik

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
4a) Of the above claim(s) 1-19 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 20-29 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The applicant's election of Group II with traverse (filed 16 August 2004) is hereby acknowledged. An action on the merits of claims 20-29 follows.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 22, 24, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Stickley.

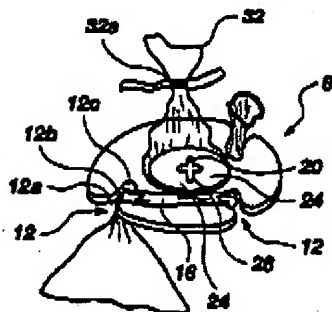
Stickley discloses a structured member (10) having a balloon neck receiving aperture (14), inserting passage means (*the tubular portion encompassing reference numeral 14*), and at least one stretched neck retaining means (*the gaps between reference numeral 15*) formed therethrough and a safety device (16) formed on the structure member (10) for reducing the risk of injury from ingestion by children, thereby making the toy balloon closure and sealing device safe; the tail portion (11) includes at least one slot (13).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 21, 23, 26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carroll et al. in view of Japanese Publication No. 08-206368, hereinafter JP '368.



Carroll et al. disclose a toy balloon closure and sealing device comprising a generally flat member (8) having a first end, a second end opposite the first end, a first side edge and a second side edge opposite the first side edge; a balloon neck receiving aperture (12) formed through the generally flat member (8) and between the first end and the second end; inserting passage means (*the slotted portion proximate reference numeral 8 as illustrated in Figure 2*) for inserting a balloon neck (16) from the first end into the balloon neck receiving aperture (12); at least one (12) nonaligned with the inserting passage (*the slotted portion proximate reference numeral 8 as illustrated in Figure 2*), for creating at least one angled sharp end (as illustrated by reference numeral 12 in Figure 2) and should and seal in a balloon neck being stretched from the balloon neck receiving aperture (12) for reinsertion *through the inserting passage means (the slotted portion proximate reference numeral 8) (the balloon neck is capable of being reinserted through the inserting passage means in that it has all of the claimed structure)* and through the balloon neck receiving aperture (12); thereby effectively

closing and sealing the balloon neck (16) without tying and without the risk of the balloon neck unraveling and causing premature balloon deflation.

Carroll et al. do not disclose a safety device in the form of a repulsive taste agent applied to the generally flat member.

JP '368 teaches coating small articles (e.g. a toy) coated with a bitter emetic material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the flat member with a coating of a repulsive taste agent as taught by JP '368, to prevent a small article being ingested by a child.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 23 above, and further in view of Bloch et al. (US Patent No. 5,962,099).

Carroll et al., as modified by JP '368, lacks the repulsive taste agent (coating) applied to an adhesive tape.

Bloch et al. teach an adhesive tape having a coating on another side thereof.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the abovementioned claimed feature as taught by Bloch et al., since such a modification would allow coatings to be applied by adhesive tape.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the repulsive taste agent to be placed on adhesive tape, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70.

Claim 29 rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 28 above, and further in view of Clodfelter et al.

Carroll et al., as modified by JP '368, lacks the bittering agent being denatonium benzoate.

Clodfelter et al. teach a bittering agent in the form of denatonium benzoate childproofing closure caps (col. 2, lines 6-10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a bittering agent in the form of denatonium benzoate as taught by Clodfelter et al., since Clodfelter states at col. 2, lines 9-10, that such a modification would not provide any harmful effects on small children.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM-2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene L. Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

umc



EUGENE KIM
SUPERVISORY PATENT EXAMINER